

**ALLEGED VIOLATION:** On or about July 19, 24, and 25, 1950, while quantities of *Benzedrine Sulfate tablets*, *Seconal Sodium capsules*, and *Savatan capsules* were being held for sale at the above-mentioned drug store after shipment in interstate commerce, Warren Pizinger caused one box of *Savatan capsules* to be sold and disposed of in the original box in which such capsules had been shipped in interstate commerce, without the prescription of a physician; and Henry Fiegenbaum repacked and dispensed a number of *Benzedrine Sulfate tablets* and Warren Pizinger repacked and dispensed a number of *Seconal Sodium capsules* without prescriptions of physicians, which acts of the defendants resulted in the drugs being misbranded.

**NATURE OF CHARGE:** *Savatan capsules*. Misbranding, Section 502 (f) (1), the labeling of the capsules bore no directions for use. (The box in which the capsules were shipped in interstate commerce bore no directions for use since it was exempt from such requirements by the statement on the label "Caution: To be dispensed only by or on the prescription of a physician." The act of Warren Pizinger in dispensing the drug without a physician's prescription, however, caused the exemption to expire.)

*Benzedrine Sulfate tablets* and *Seconal Sodium capsules*. Misbranding, Sections 502 (b) (1) and (2); the repackaged drugs failed to bear labels containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 502 (f) (1), the labeling of the repackaged drugs failed to bear adequate directions for use. Further misbranding, Section 502 (d), the repackaged *Seconal Sodium capsules* contained a chemical derivative of barbituric acid, which derivative has been found to be, and by regulations designated as, habit forming; and the repackaged capsules failed to bear a label containing the name, and quantity or proportion of such derivative and in juxtaposition therewith the statement "Warning—May be habit forming."

**DISPOSITION:** A motion for a bill of particulars was filed on behalf of the defendants and was allowed by the court with respect to the request that the Government furnish particulars as to the manner in which the defendants had caused the drugs to be repacked and dispensed. In accordance with such ruling, the Government filed a bill of particulars on April 23, 1952. Thereafter, a motion for dismissal of the information was filed on behalf of the defendants, and was overruled by the court on May 29, 1952. The defendants subsequently entered pleas of nolo contendere, and on October 30, 1952, the court imposed a fine of \$1,000, plus costs, against Defendant Pizinger and \$250 against Defendant Fiegenbaum and placed each defendant on probation for 3 years.

**3847. Alleged misbranding of Seconal Sodium capsules and pentobarbital sodium capsules.** U. S. v. Wells B. Kilgore (Kilgore's Pharmacy), and Weldon R. Rehburg. Pleas of not guilty. Motion granted for dismissal of the information and defendants discharged as not guilty. (F. D. C. No. 31274. Sample Nos. 93082-K, 93087-K, 93091-K, 93097-K, 93201-K, 93208-K, 93213-K, 93217-K, 93225-K, 93226-K, 93228-K.)

**INFORMATION FILED:** January 8, 1952, Southern District of Florida, against Wells B. Kilgore, trading as Kilgore's Pharmacy, St. Petersburg, Fla., and Weldon R. Rehburg, a pharmacist employed by Mr. Kilgore.

**ALLEGED VIOLATION:** Between the approximate dates of October 24 and December 18, 1950, while a number of *Seconal Sodium capsules* and *pentobarbital sodium capsules* were being held for sale at Kilgore's Pharmacy after shipment in interstate commerce, various quantities of the drugs were

repacked and dispensed without a physician's prescription, which acts resulted in the repackaged drugs being misbranded.

Wells B. Kilgore was charged with causing the acts of repacking and dispensing in each of the eight counts of the information, and Weldon R. Rehburg was joined as a defendant in three counts.

**NATURE OF CHARGE:** Misbranding, Section 502 (b) (2), the repackaged drugs failed to bear labels containing an accurate statement of the quantity of the contents.

Further misbranding, Section 502 (d), the repackaged drugs contained chemical derivatives of barbituric acid, which derivatives have been found to be, and by regulations designated as, habit forming; and the labels of the repackaged drugs failed to bear the name, and quantity or proportion of each derivative and in juxtaposition therewith the statement "Warning—May be habit forming."

Further misbranding, Section 502 (f) (1), the labeling of the repackaged drugs failed to bear adequate directions for use.

**DISPOSITION:** Pleas of not guilty were entered on behalf of the defendants on February 12, 1952. A motion for dismissal of the information was filed on behalf of the defendants on or about February 18, 1952. On August 1, 1952, the court entered an order granting the motion to dismiss and discharging the defendants as not guilty, based upon the same reasons as set forth in the order of dismissal which was entered in the case reported in the following notice of judgment, No. 3848.

**3848. Alleged misbranding of Seconal Sodium capsules and pentobarbital sodium capsules.** U. S. v. Forest C. Pomroy (Pomroy's Drug Store). Plea of guilty. Motion for dismissal of the information granted and defendants discharged as not guilty. (F. D. C. No. 31271. Sample Nos. 93084-K, 93089-K, 93093-K, 93099-K, 93203-K, 93210-K, 93212-K, 93221-K, 93222-K, 93238-K.)

**INFORMATION FILED:** January 8, 1952, Southern District of Florida, against Webb's City, Inc., St. Petersburg, Fla., and Charles L. Fox, manager of the prescription department of the corporation.

**ALLEGED VIOLATION:** Between the approximate dates of October 24 and December 19, 1950, while quantities of *Seconal Sodium capsules* and *pentobarbital sodium capsules* were being held for sale at Webb's City, Inc., after shipment in interstate commerce, the defendants caused various quantities of the drugs to be repacked and dispensed without a physician's prescription, which acts resulted in the repackaged drugs being misbranded.

**NATURE OF CHARGE:** Misbranding, Section 502 (b) (2), the repackaged drugs failed to bear labels containing an accurate statement of the quantity of the contents.

Further misbranding, Section 502 (d), the repackaged drugs contained chemical derivatives of barbituric acid, which derivatives have been found to be, and by regulations designated as, habit forming; and the labels of the repackaged drugs failed to bear the name, and quantity or proportion of each derivative and in juxtaposition therewith the statement "Warning—May be habit forming."

Further misbranding, Section 502 (f) (1), the labeling of the repackaged drugs failed to bear adequate directions for use.